IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 12997 of 2004

Between:

S.A.Sayeed, S/o.Late Sri Syed Yousuf Ali,
R/o.H.No.22-1-965/966, Noorkhan Bazar, Hyderabad.

..... PETITIONER

AND

1 Municipal Corporation of Hyderabad, Through its Commissioner having office at Tank Bund Road, Hyderabad.
2 Hussaini Bano, W/o.Syed ali Mohd R/o.H.No.22-1-964, Noorkhan Bazar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order, direction or a writ particularly in the nature of writ of mandamus declaring that the respondent No.1 is bound by statue to take action of demolition as against the respondent No.2 in case if she is raising/ she has raised construction alterations, additions in her house bearing MC. No.22-1-964, situated at Noorkhan Bazar, Hyderabad violating the mandatory provisions of M.C.H. Act and building by-laws illegally, consequently the respondent No.1 and his subordinates particularly Asst. City Town planner, Circle I, M.C.H. having office at Sardar Mahal, to take action to demolish the illegally raised construction by the respondent No.2 in her house bearing M.C.No.22-1-1964, situated at Noorkhan Bazar, Hyderabad.

Counsel for the Petitioner: MR.MOHD.MOIN AHMED QUADRI

Counsel for Respondent No.1: MR.RAMA RAO GANTA

Counsel for Respondent No.2: Mr. M. Basith Ali Yavar

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioners and learned Standing Counsel for first respondent and Sri M. Basith Ali Yavar, learned counsel for the second respondent. Both the counsel have expressed no objection to dispose of the writ petition at the admission stage.

It is the case of the petitioner that the mother of the petitioner has purchased the house property bearing M.C. No.22-1-965/966, Noorkhan Bazar, Hyderabad under a registered sale deed dated 23-6-1959. Subsequently she gifted the same to the petitioner. Since then he is in possession and enjoyment of the same. When the second respondent started construction in the adjacent house bearing No.M.C.No.22-1-964 without any valid permit and sanctioned plan causing much inconvenience to the petitioner, the petitioner filed a complaint on 13-7-2004 before the first respondent as well as the Assistant Town Planner Circle-I M.C.H. Complaining that the first respondent has not taken any action on the complaint made by him, the petitioner moved this court by way of filing the present writ petition.

On the complaint made by the petitioner Municipal

Corporation served a notice on the second respondent pointing out deviations on the construction made unauthorisedly. On the said notice the second respondent approached the Civil Court by filing O.S.No.4049 of 2004 on the file of XIX Junior Civil Judge, City Civil Court, Hyderabad, in which he obtained status quo in I.A.No.819 of 2004 on 23-7-2004.

In view of the same, the grievance of the petitioner that the first respondent Corporation has failed to take action cannot be accepted. It is always open for the petitioner to get himself impleaded in the above said suit, if law permits and can obtain necessary orders in accordance with flaw. But, in this writ petition no relief can be granted to the petitioner.

Accordingly, the Writ Petition is dismissed at the admission stage.

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A. Gopal Reddy, J.

21st September, 2004.
Js.

ASSISTANT REGISTRAR

To
1 The Commissioner, Municipal Corporation of Hyderabad, having office at Tank Bund Road, Hyderabad.
2 2 CD copies.